

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANIEL WALL and CARI WALL,
husband and wife,

Plaintiffs,

vs.

COUNTRY MUTUAL INSURANCE
COMPANY, a foreign corporation,

Defendant.

Case No.: 2:17-cv-00446-MJP

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

This Stipulation is entered into by and between Plaintiffs Daniel Wall and Cari Wall and Defendant Country Mutual Insurance Company. The named parties possess certain confidential and/or proprietary information which may be disclosed to the other parties in this action, specifically, Country Mutual's Best Practices, the underwriting file, the agent file, and personal or business financial information. Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it

1 affords from public disclosure and use extends only to the limited information or items that are
2 entitled to confidential treatment under the applicable legal principles, and it does not
3 presumptively entitle parties to file confidential information under seal.

4 2. “CONFIDENTIAL” MATERIAL

5 Confidential material means any document, data, information, video, writing, paper,
6 tangible thing, transcript of oral testimony, whether printed or recorded or reproduced by any other
7 mechanical process, or written or produced by hand, and the content of any such document, which
8 the party designates as “Confidential”. By way of example, and not limitation, confidential
9 information may include or be included in documents, papers, drawings, diagrams, plans,
10 specifications, manuals, transcripts, answers to Interrogatories and other responses to discovery
11 requests, and any instruments which compromise, embody, or summarize matter which the party
12 considers confidential and desires not be made public. At the time this Stipulation is entered into
13 the parties have identified the following confidential information: Country Mutual’s Best
14 Practices, the underwriting file, the agent file, and personal or business financial information. The
15 parties reserve the right to identify and designate additional confidential materials identified during
16 the course of discovery.
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19 3. SCOPE

20 The protections conferred by this agreement cover not only confidential material (as
21 defined above), but also (1) any information copied or extracted from confidential material; (2) all
22 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
23 conversations, or presentations by parties or their counsel that might reveal confidential material.
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1 Use of any information or documents labeled “Confidential” and subject to this Protective
2 Order, including all information derived therefrom, shall be restricted solely to the litigation of
3 this case and shall not be used by any party for any business, commercial, or competitive purpose.

4 However, the protections conferred by this agreement do not cover information that is in
5 the public domain or becomes part of the public domain through trial or otherwise.

6 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

7 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
8 or produced by another party or by a non-party in connection with this case only for prosecuting,
9 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
10 categories of persons and under the conditions described in this agreement. Confidential material
11 must be stored and maintained by a receiving party at a location and in a secure manner that ensures
12 that access is limited to the persons authorized under this agreement.

13 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
14 by the court or permitted in writing by the designating party, a receiving party may disclose any
15 confidential material only to:
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17 (a) the receiving party’s counsel of record in this action, as well as employees
18 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

19 (b) the officers, directors, and employees (including in house counsel) of the
20 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
21 agree that a particular document or material produced is for Attorney’s Eyes Only and is so
22 designated;
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24 (c) experts and consultants to whom disclosure is reasonably necessary for this
25 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
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1 (d) the court, court personnel, and court reporters and their staff;

2 (e) copy or imaging services retained by counsel to assist in the duplication of
3 confidential material, provided that counsel for the party retaining the copy or imaging service
4 instructs the service not to disclose any confidential material to third parties and to immediately
5 return all originals and copies of any confidential material;

6 (f) during their depositions, witnesses in the action to whom disclosure is
7 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
8 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
9 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
10 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
11 under this agreement;
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13 (g) the author or recipient of a document containing the information or a
14 custodian or other person who otherwise possessed or knew the information.

15 4.3 Filing Confidential Material. Before filing confidential material or discussing or
16 referencing such material in court filings, the filing party shall confer with the designating party
17 to determine whether the designating party will remove the confidential designation, whether the
18 document can be redacted, or whether a motion to seal or stipulation and proposed order is
19 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards
20 that will be applied when a party seeks permission from the court to file material under seal.
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22 5. DESIGNATING PROTECTED MATERIAL

23 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
24 or non-party that designates information or items for protection under this agreement must take
25 care to limit any such designation to specific material that qualifies under the appropriate
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standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for protection under this agreement must be clearly so designated before or when the material is disclosed or produced.

(a) Information in documentary form: (*e.g.*, paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the parties and any participating non-parties must identify on the record, during the deposition or other pretrial

1 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
2 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
3 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
4 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information
5 at trial, the issue should be addressed during the pre-trial conference.

6 (c) Other tangible items: the producing party must affix in a prominent place
7 on the exterior of the container or containers in which the information or item is stored the word
8 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
9 the producing party, to the extent practicable, shall identify the protected portion(s).

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate
11 qualified information or items does not, standing alone, waive the designating party’s right to
12 secure protection under this agreement for such material. Upon timely correction of a designation,
13 the receiving party must make reasonable efforts to ensure that the material is treated in accordance
14 with the provisions of this agreement.

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
17 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
18 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
19 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
20 challenge a confidentiality designation by electing not to mount a challenge promptly after the
21 original designation is disclosed.

22 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
23 regarding confidential designations without court involvement. Any motion regarding confidential
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1 designations or for a protective order must include a certification, in the motion or in a declaration
2 or affidavit, that the movant has engaged in a good faith meet and confer conference with other
3 affected parties in an effort to resolve the dispute without court action. The certification must list
4 the date, manner, and participants to the conference. A good faith effort to confer requires a face-
5 to-face meeting or a telephone conference.

6 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
7 intervention, the designating party may file and serve a motion to retain confidentiality under Local
8 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
9 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
10 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
11 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
12 the material in question as confidential until the court rules on the challenge.

14 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
15 LITIGATION

16 If a party is served with a subpoena or a court order issued in other litigation that compels
17 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
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20 (a) promptly notify the designating party in writing and include a copy of the
21 subpoena or court order;

22 (b) promptly notify in writing the party who caused the subpoena or order to
23 issue in the other litigation that some or all of the material covered by the subpoena or order is
24 subject to this agreement. Such notification shall include a copy of this agreement; and
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1 (c) cooperate with respect to all reasonable procedures sought to be pursued by
2 the designating party whose confidential material may be affected.

3 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
5 material to any person or in any circumstance not authorized under this agreement, the receiving
6 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
7 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
8 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
9 and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be
10 Bound” that is attached hereto as Exhibit A.
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12 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
13 MATERIAL

14 When a producing party gives notice to receiving parties that certain inadvertently
15 produced material is subject to a claim of privilege or other protection, the obligations of the
16 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
17 is not intended to modify whatever procedure may be established in an e-discovery order or
18 agreement that provides for production without prior privilege review. The parties agree to the
19 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.
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21 The receiving party or its counsel shall not disclose such documents or materials if that
22 party knows or reasonably should know that a claim of confidentiality would be made by the
23 producing party. Promptly after receiving notice from the producing party of a claim of
24 confidentiality, the receiving party or its counsel shall inform the producing party of all pertinent
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1 facts relating to the prior disclosure of the newly-designated documents or materials, and shall
2 make reasonable efforts to retrieve such documents and materials and to prevent further disclosure.

3 10. NON TERMINATION AND RETURN OF DOCUMENTS

4 Within 60 days after the termination of this action, including all appeals, each receiving
5 party must return all confidential material to the producing party, including all copies, extracts and
6 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

7 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
8 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
9 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
10 product, even if such materials contain confidential material.

11 11. AGREEMENT TO BE BOUND

12 The parties and their counsel, by executing this Order, undertake and abide by and be bound
13 by its provisions and to use due care to see that its provisions are known and adhered to by those
14 under their supervision or control. Any person, whether a party, witness, expert, attorney or other,
15 who fails to abide by any provision in this Stipulation and Order and/or any provision in the
16 accompanying Affidavit may be subject to an injunction, with the party who designated the
17 material as confidential having the right to seek additional remedies, including damages, costs and
18 expenses, and attorney fees in the amount necessary to compensate the party for the actual harm
19 and potential harm caused, an amount to be determined by the Court for the failure to abide by a
20 Court Order, attorney's fees and costs and any other sanctions that the Court deems proper.

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1 The confidentiality obligations imposed by this agreement shall remain in effect until a
2 designating party agrees otherwise in writing or a court orders otherwise.
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4 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**
5

6 IMPACT LAW GROUP

7 By: /s/ Jonah O. Harrison

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9 Email: jonah@impactlawgroup.com

10 By: /s/ Robert Crowley

11 Robert Crowley, WSBA #37953

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15 *Attorneys for Plaintiffs*

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12909 SW 68th Parkway, Suite 320

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Attorneys for Defendant

1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents in this proceeding shall not, for the purposes of this proceeding or any other proceeding
4 in any other court, constitute a waiver by the producing party of any privilege applicable to those
5 documents, including the attorney-client privilege, attorney work-product protection, or any other
6 privilege or protection recognized by law.

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8 DATED: October 26, 2017
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12 Marsha J. Pechman
13 United States District Judge
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EXHIBIT A

I, _____, have been advised by counsel of record for
_____ in *Wall v. Country Mutual Insurance Company*, U.S. District Court for the Western District of Washington, Case No. 2:17-cv-00446-MJP, of the Stipulated Protective Order governing the delivery, publication, and disclosure of confidential documents and information produced in this litigation.

1. I have read the Stipulation and Order of Protection and Confidentiality with regard to this matter and I agree to abide by all of the terms and conditions set forth therein. Specifically, I agree to keep confidential all information produced by any party which have been marked or deemed confidential in accord with the Stipulation. I will not use any of the information in any other matters, litigated or otherwise, in which I have been, am or will become involved. I will not make any of the information public in any way. The information I obtain will be used solely in the preparation and trial of this matter. I agree that I will not make copies or computer reproductions or other recordings of any of the information provided by any party herein which has been marked or deemed confidential. I agree to return the information to the party I am retained by immediately after my testimony in the trial and/or involvement in this matter. Should the matter be otherwise dismissed or settled, I agree to return said information immediately upon notification of the dismissal or settlement and will provide or destroy all notes or summaries of the information contained within said confidential materials.

2. I understand that I can be held in contempt of court if I fail to abide by all terms of the Stipulation and Order of Protection and Confidentiality. I further understand that monetary sanctions, in an amount to be determined by the Court, may be imposed against me if I fail to abide by said terms.

Signed

Printed Name

Date

1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that on October 26, 2017, I served the foregoing
3 STIPULATED PROTECTIVE ORDER on:

4 Jonah O. Harrison
5 Robert Crowley
6 Impact Law Group
1325 Fourth Ave., Suite 1400
Seattle, WA 98101
7 *Of Attorneys for Plaintiffs*

- 8 ☒ by electronic means through the Court's Case Management/Electronic Case Filing system
on the date set forth above.
- 9 ☐ by mailing a full, true and correct copy thereof in a sealed, first-class postage-prepaid
10 envelope, addressed to the attorney as shown above, the last-known office address of the
attorney, and deposited with the United States Postal Service at Portland, Oregon on the
11 date set forth above.
- 12 ☐ by emailing a full, true and correct copy thereof to the attorney at the email address(es)
shown above, which is the last-known email address(es) for the attorney's office, on the
13 date set forth above.
- 14 ☐ by faxing a full, true and correct copy thereof to the attorney at the fax number shown
above, which is the last-known fax number for the attorney's office, on the date set forth
15 above.

16 THENELL LAW GROUP, P.C.

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